

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 22.10.02

OA 247/2000

L.T.Kalwani, Sr.Telecom Office Assistant (G) O/o General Manager,
Telecom District, Ajmer.

... Applicant

Versus

1. Union of India through Secretary, Department of Telecommunications, Ministry of Communications, New Delhi.
2. Chief General Manager Telecommunications, Rajasthan Telecom Circle, Jaipur.
3. General Manager, Telecom District, Ajmer.
4. Shri R.S.Panwar, Chief Section Supervisor O/o GMTD, Ajmer.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

For the Applicant

... Mr.K.L.Thawani

For Respondents No.1to3

... Mr.Bhanwar Bagri

For Respondent No.4

... None

O R D E R

PER MR.A.P.NAGRATH

The applicant is aggrieved with the promotion of respondent No.4, Shri R.S.Panwar, to Grade-IV. Respondent No.4 belongs to SC community and is admittedly junior to the applicant. The applicant seeks direction to the respondents to revert respondent No.4 from Grade-IV and instead to promote him i.e. the applicant with effect from the date Shri Panwar was so promoted.

2. Case of the applicant is that Grade-IV was brought into existence in the cadre by an order of upgradation to the extent of 10% of posts in Grade-III. He contends that as per the settled legal position reservation does not apply to such upgradation or redistribution of posts. To support his plea, he has filed a document dated 8.9.99 (Ann.A/1), whereby the department, having accepted this legal position, directed all the Heads of Telecom Circles and others as follows :



- "i) In pursuance of Order No.27-4/87-TE.II dated 16.6.97, the officials of restructured cadre wrongly promoted to Gr.IV by comparison with officials of old cadre placed in Gr.IV either against supernumerary posts created in pursuance of Order No.22-6/94-TE.II dt.13.02.97 or through application of Reservation Roster as per Order No.22-6/94-TE.II dt.1.3.96, may be reverted with immediate effect.
- ii) To comply with the Ahmedabad CAT Order circulated vide this office letter No.22-6/94-TE.II dt.22.8.97, review DPC may be conducted. All ineligible officials promoted to Gr.IV by application of Reservation Roster as mentioned in this office Order of even No. dated 1.3.96 may be reverted with immediate effect. All eligible officials may be placed in Gr.IV and their pay may be fixed notionally. However, no arrears will be payable to such officials approved by reviewed DPC."

Plea of the applicant is that respondent No.4 has not yet been reverted in terms of these orders and thereby his legal right is continued to be adversely affected.

3. The respondents have mentioned in their reply that they had already taken steps to revert Shri R.S.Panwar, who had earlier been promoted to Gr.IV on 3.11.95 following the rules prevailing at that time. Later, to comply with DOT instructions contained in Ann.A/1 Shri R.S.Panwar was ordered to be reverted from Gr.IV to Gr.III vide GMTD Ajmer letter dated 11.5.2000 (Ann.A/9) so that review DPC could be convened. Shri Panwar had filed OA 215/2000 against this order and obtained an interim stay from the Tribunal. In this background, the respondents contend that they were prevented from reverting Shri Panwar and holding the review DPC.

4. Heard the learned counsel for the parties and perused the records.

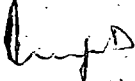
5. The applicant has retired on 31.7.2000. The respondents have stated in their reply that his retirement does not bar him


from the benefits of promotion, if due, even after retirement. In view of DOT's letter dated 8.9.99 (Ann.A/1), pay of the officials promoted in review DPC is to be fixed notionally. Thus, the applicant was not likely to suffer any pecuniary loss in case the matter ends up in his favour finally.

6. During arguments, the latest position of the disposal of OA 215/2000, filed by Shri R.S.Panwar, was not brought to our notice by the learned counsel on either side. However, we have called for the records from the Registry and we find that the said OA had been decided on 23.11.2000, by which the order of reversion dated 11.5.2000 had been quashed and set aside. However, the respondents were given liberty to pass appropriate order after following the principles of natural justice and due process of law.

7. The facts of this case make it amply clear that this OA is premature. By the applicant's own admission, the department had initiated steps to revert respondent No.4 but were prevented from doing so because of the interim order of this Tribunal. OA filed by respondent No.4 has been finally decided and the respondents have been given liberty to pass appropriate orders after following the principles of natural justice. The learned counsel for the parties have not been able to place before us latest status in the matter. Be that as it may, the fact remains that there is no final order passed yet of which the applicant could feel aggrieved and bring the matter before this Tribunal. There is no order which could be considered as giving rise to a cause of action to the applicant presently.

8. Since there is no final order on which the cause of action could be based by the applicant, we consider this OA as premature and dismiss the same as such. As and when the respondents pass a final order in respect of Shri R.S.Panwar, respondent No.4, and such order causes any grievance to the applicant, the applicant shall be at liberty to agitate the matter afresh before the appropriate forum. No costs.


(A.P.NAGRATH)
MEMBER (A)


(G.L.GUPTA)
VICE-CHAIRMAN